

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

RODNEY CARSON,

Petitioner,

CASE NO. 2:07-cv-00375

JUDGE SARGUS

MAGISTRATE JUDGE ABEL

v.

STUART HUDSON, Warden,

Respondent.

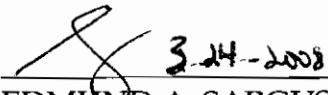
**OPINION AND ORDER**

On December 28, 2007, the Magistrate Judge issued a *Report and Recommendation* recommending that petitioner's request for a stay be denied and that this action be dismissed without prejudice as unexhausted unless petitioner deleted unexhausted claims from the petition. Petitioner has filed objections to the Magistrate Judge's *Report and Recommendation*. Petitioner complains that the Magistrate Judge misconstrued his request as amending the petition with unexhausted claims raised in his November 1, 2006, motion for a new trial and now pending before the Ohio Supreme Court. Petitioner indicates that he seeks to amend his habeas corpus petition after exhausting state court remedies, and appears to indicate that he only intends to amend the petition to include some, but not all, of the claims raised in his November 1, 2006, motion for a new trial. *See Objections*. Petitioner also again requests to file a traverse. *Objections*, at 9-10.

The Court construes petitioner's objections as a request to delete any unexhausted claims from the petition. That request is **GRANTED**. Petitioner's unopposed motion to expand the record with the exhibits attached thereto, Doc. No. 21, also is **GRANTED**.

Pursuant to Pursuant to 28 U.S.C. 636(b)(1), this Court has conducted a *de novo* review of the Magistrate Judge's *Report and Recommendation*. Petitioner's objections are **OVERRULED**. The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. For the reasons discussed in the Magistrate Judge's *Report and Recommendation*, petitioner's request for a stay is **DENIED**. As indicated in the Court's Order, October 23, 2007, Doc. No. 15, petitioner has thirty (30) days from the date of this order to file his traverse.

**IT IS SO ORDERED.**

  
EDMUND A. SARGUS, JR.  
United States District Judge